



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Virginia Department of Health
VAC Chapter Number:	12 VAC 5-585
Regulation Title:	Biosolids Use Regulations
Action Title:	Amendment for Certifying Land Appliers
Date:	August 8, 2004

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The *Biosolids Use Regulations (12 VAC 5-585)* are to be amended to provide regulations and standards for training, testing and certification of persons land applying Class B sewage sludge in the Commonwealth, and for revoking, suspending or denying such certification from any person for cause. The regulations shall include standards and criteria for the approval of programs of instruction taught by governmental entities and by the private sector for the purpose of certifying sewage sludge land applicators.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Legislation passed by the General Assembly (SB 1088, Acts of Assembly c. 681, 2003) and signed into law by the Governor, amended § 32.1-164.6 of the *Code of Virginia* (available electronically at <http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0681>), requiring that the State Board of Health (Board) adopt regulations for Certification of Sewage Sludge Land Applicators. The Board, with the assistance of the Virginia Department of Health (VDH), the Department of Environmental Quality and the Department of Professional and Occupational Regulation shall promulgate the regulations and standards required by this subsection and no person shall land apply Class B sewage sludge pursuant to a permit under § 32.1-164.5 or § 62.1-44.19:3 of the *Code of Virginia* unless a certified sewage sludge land applicator is onsite at all times during such land application, as of 180 days following the effective date of regulations required by this section.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

An Ad Hoc Advisory Committee is assisting the VDH in developing a Draft Regulation to be presented to the Board of Health for approval as a Proposed Regulation in accordance with the Administrative Process Act (APA). Final Regulations will have to be adopted by the Board of Health in accordance with the APA, in order to meet the mandate stipulated in Section 32.1-164.6 of the *Code of Virginia*. The regulations shall include requirements and procedures for training and certifying individuals responsible for directing and ensuring that land application of biosolids complies with site specific permits issued through the *Biosolids Use Regulations*

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

No Alternatives have been considered as the development of this regulation has been clearly authorized and mandated in Section 32.1-164.6 of the *Code of Virginia*.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children;

2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action will have no anticipated or associated impacts on family rights to educate and supervise children. It will not discourage economic self-sufficiency and family responsibilities and commitments or decrease disposable family income.